

FAMILY LAW SECTION

Respectfully submits the following position on:

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SB 0099

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The Family Law Section is not the State Bar of Michigan itself, but rather a Section which members of the State Bar choose voluntarily to join, based on common professional interest.

The position expressed is that of the Family Law Section only and is not the position of the State Bar of Michigan.

To date, the State Bar does not have a position on this matter.

The total membership of the Family Law Section is 2,540.

The position was adopted after discussion and vote at a scheduled meeting. The number of members in the decision-making body is 21. The number who voted in favor to this position was 18. The number who voted opposed to this position was 0.



## Report on Public Policy Position

**Name of section:**

Family Law Section

**Contact person:**

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**Bill Number:**

SB 0099 (Jansen) Family law; friend of the court; friend of the court act; make miscellaneous revisions. Amends secs. 2, 2a, 5, 5a, 9a, 11a, 13, 15, 17, 17b, 19, 27 & 28 of 1982 PA 294 (MCL 552.502 et seq.).

**Date position was adopted:**

March 7, 2009

**Process used to take the ideological position:**

Position adopted after discussion and vote at a scheduled meeting.

**Number of members in the decision-making body:**

21

**Number who voted in favor and opposed to the position:**

18 Voted for position

0 Voted against position

0 Abstained from vote

3 Did not vote

**Position:**

Oppose and Amend

**Explanation of the position, including any recommended amendments:**

The Friend of the Court Association bills are now SB 99 – SB 107. Last term the original drafts went through extensive revisions to address criticisms from a number of groups, including our section. As revised, there are still four provisions that we find objectionable, three of them within SB 99;

1. SB 99, p.9 modifies MCL 552.505(1)(g) to allow the FOC to charge parties for the cost of conducting a custody or parenting time investigation. It is often the court that requests the investigation, rather than the parties. A party who is required to defend a frivolous custody motion can now also be forced to pay for an investigation they do not want. This could be especially annoying if the filing party does not have to pay a share of the cost because they are indigent.

2. SB 99, p. 10 adds MCL 552.505(3) which exempts future spousal support-only cases from FOC enforcement unless the court orders the FOC to enforce that case. Almost all of the FOC's enforcement machinery for child support is

equally efficient and effective in the enforcement of spousal support. Private enforcement of spousal support will rarely be cost-effective, and many payees will be left without support.

3. SB 100, p. 14, 16 modifies MCL 552.603a to eliminate surcharges unless ordered by the court for willful failure to pay support. Surcharges were originally intended to help preserve the value of child support arrearages, in lieu of interest. If child support arrearages are not surcharged, it will be to the payer's financial benefit to pay other interest-bearing debts before paying child support, and the payee will lose the present value of the child support with no recompense. The Family Law Section opposes these bills unless these provisions are eliminated.

**The text of any legislation, court rule, or administrative regulation that is the subject of or referenced in this report.**

<http://legislature.mi.gov/doc.aspx?2009-SB-0099>